In The High Court of Uttaranchal, at Nainital

Criminal Misc. Application No. 220/ 2006

1- Smt. Anita Devi W/o Rameshwar Dayal

2- Rameshwar Dayal S/o Thakur Dass,

3- Phool Chandra S/o Vasudev,

All R/o Ward No.6 Khatima

(Udham Singh Nagar) …..Petitioners.

Versus

1- State of Uttaranchal.

2- Judicial Magistrate, Khatima (U.S. Nagar)

3- Smt. Laxmi Devi W/o Ram Swaroop
R/o Behind Railway Colony, Khetal Sanda Kham
Tehsil Khatima (U. S. Nagar) …Respondents.

Sri H.M. Bhatia learned counsel for the petitioners.
Sri Nandan Arya, learned A.G.A.

(Hon'ble B.C. Kandpal, J.)

Dated: 10-04-2006

By way of this petition under Section 482 Cr.P.C., the petitioners have prayed for quashing the proceedings in criminal case No. 1009/2004, U/Ss 147, 323, 452, 504, 506, 149 I.P.C. and U/S 3 S.C./S.T. Act, pending in the court of Judicial Magistrate, Khatima (Udham Singh Nagar).

2- Brief facts of the case giving rise to this petition are that a first information report was lodged against the petitioners for the offence U/Ss 147/ 323/ 452/ 504/ 506 I.P.C. and Section 3(1) (X) of S.C./S.T. Act. It reveals from the petition that final report was submitted by the police and after submission of the report by the police, protest application was filed before the Judicial Magistrate and the statement of respondent No.3 U/S 200 Cr.P.C. as well as the statements of the witnesses U/S 202 Cr.P.C. were recorded. The trial court after having considered the material on record was pleased to summon the petitioners vide order dated 18-9-2004.

3- The petitioners preferred revision before the court of Sessions Judge, U.S. Nagar, but the same was dismissed vide order dated 13-1-2006.

4- Feeling aggrieved by the aforesaid orders, this petition U/Ss 482 Cr.P.C. has been filed before this Court.

5- Heard learned counsel for the petitioners, learned A.G.A. and perused the record.

6- Learned counsel for the petitioners has argued that no prima facie case is made out against the petitioners and the learned Magistrate in a mechanical manner has issued the summoning order. It has also been submitted that the Sessions Judge has also decided the revision without considering the relevant provisions of law.

7- Having considered the arguments advanced by the learned counsel for the petitioners, I am of the view that there is no abuse of process of court. The trial court was not expected to consider the evidence meticulously at the stage of passing the summoning order. The trial court was of the opinion that a prima facie case was made out against the petitioners to proceed and this satisfaction of the trial court does not require any interference by way of the inherent power to be exercised by this court U/S 482 Cr.P.C., unless it is shown that there is a serious miscarriage of justice and abuse of process of court or any mandatory provisions of law were not complied with.

8- I, while sitting in the jurisdiction U/S 482 Cr.P.C., am not supposed to embark upon an enquiry as to the reliability of the evidence and sustainability of accusation on a reasonable appreciation of such evidence, as this court is not assuming the role of the trial Judge. I am also not supposed to give any premature decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved cannot be seen in their true perspective without sufficient material.

9- The petition lacks merit and is liable to be dismissed.

10- Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

ISB